B.   Application to Challenged Claims

[1.P] A portable cell phone, comprising:

To the extent the preamble is deemed limiting, which Petitioner does not concede, Irvin discloses a portable cell phone. EX1003, ¶101. For example, Irvin describes a "mobile terminal" for a "wireless communication system," indicating that the "terminal" is a portable cell phone. EX1005, Abstract; 1; 2-3; FIGS. 1-10; 6; EX1020, Abstract; 1; 2-4; FIGS. 1-10; 8.

[1.1] *a power circuit that provides a network adjusted transmit power level as a function of a position to a communications tower; and*

Irvin's "mobile terminal" includes a ***power circuit*** provided by the "transmitter," including its "power control loop," alone or together with at least portions of the "processor" involved in control of transmitter power output. EX1003, ¶102. The "transmitter" is used to process and broadcast radio signals via the "antenna," and includes a "power control loop 40 for controlling transmitter power output." EX1005, 6; EX1020, 7-8. "A baseband block 42 generates an RF signal to be transmitted. The RF signal is provided to an RF driver stage 44. The RF drive stage supplies sufficient signal level to a power amplifier 46. The power amplifier 46 amplifies the signal and provides it to the antenna 12." EX1005, 6; EX1020, 8. Irvin depicts a block diagram of the circuit components of its "transmitter 18," including "baseband block 42," "RF drive stage 44," "power amplifier 46," and circuit connections between these components that provide electrical connection so that the components can carry out the functions of the "transmitter." EX1005, FIGS. 2 and 5; EX1020, FIGS. 2 and 5.
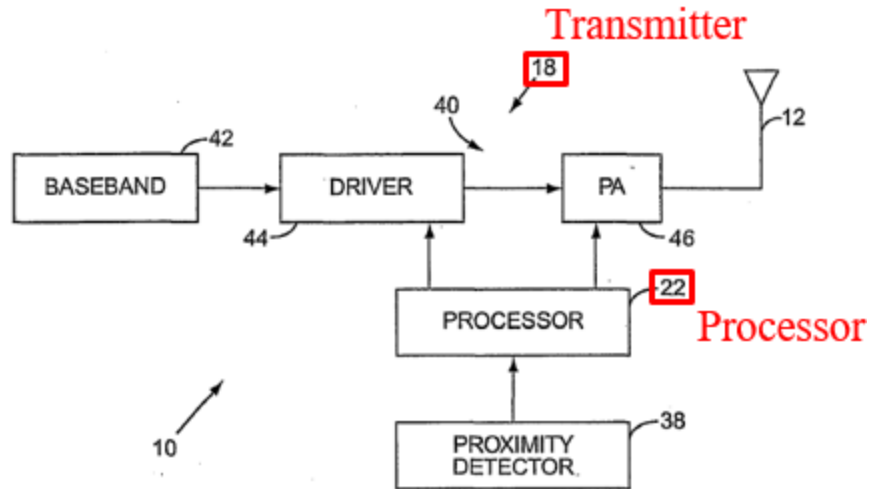
FIG. 2

EX1003, ¶102(annotating EX1005, FIG. 2).

Irvin also explains that the "driver stage 44 and power amplifier 46 are oper-

atively connected to the processor 22," and the "processor 22 conventionally con-

trols operation of the driver stage 44 and power amplifier 46 to control transmitter

power output," indicating that the "transmitter" produces a transmit power level of

the outgoing transmissions to be emitted by the "antenna." EX1005, 6; EX1020, 8;

EX1003, ¶103.

The evidence here confirms that Irvin's "transmitter," including the "power

control loop," is commensurate with the embodiment of the '435 patent, which ad-

mits the power circuit 130 is a "typical" power circuit that produces a transmit

power level equivalent to "a maximum transmit power level of one watt," and that

also employs the "antenna 125" for transmission. EX1001, 3:31-42; EX1003,

¶104.

Further, Irvin discloses that its power circuit *provides a network adjusted transmit power level as a function of a position to a communications tower*. EX1003, ¶105. According to the first construction described above (*supra*, Section V), claim 1 encompasses a network adjusted transmit power level that is "based on a transmit signal strength of a communications path between the communications tower 110 and the portable cell phone 120." EX1001, 3:39-42. Irvin describes that "[i]n an advanced mobile phone system (AMPS), for example, the base station which the mobile terminal 10 is communicating transmits a mobile attenuation code (MAC) identifying one of eight power levels. The processor 22 controls the power control loop 40 so that power output satisfies the MAC." EX1005, 6; EX1020, 8. The MAC is selected so that the transmissions provide a required transmit power level based on signal strength. EX1003, ¶105. In particular, Irvin explains that this is accomplished by the base station "**measuring signal strength** and returning instructions to the mobile terminal to modify transmitter power output." EX1005, 1 (emphasis added); EX1020, 1; EX1003, ¶105(citing EX1006 1:9-17 ("In the most common mobile communication means systems, the base station controls the transmitted power of the mobile communication means on the basis of the received signal level," and is small "close to the base station" and at its maximum "at the limits of the coverage area.")). This conventional aspect of mobile

communications is acknowledged by the '435 patent itself. "**Through communi-cations with the communications tower** 110 employing the antenna 125, the power circuit 130 may also provide a network adjusted transmit power level that is lower than the maximum power level of one watt." EX1001, 3:25-42 (emphasis added); *id.*, ("typical power circuit").

Accordingly, Irvin's "transmitter," alone or together with at least portions of the "processor" involved in control of transmitter power output, that provides a transmit power level corresponding to a "mobile attenuation code" based on "signal strength," provides [1.1].

To the extent that Irvin is considered to not explicitly disclose the power circuit recited in claim 1, the evidence herein confirms that, before the '435 patent, it was conventional in such cell phones to use a power circuit that provided a "network adjusted transmit power level as a function of a position to a communications tower." EX1003, ¶106. Myllymäki demonstrates this fact. Myllymäki explains that "[i]n the most common mobile communication means systems, the base station controls the transmitted power of the mobile communication means **on the basis of the received signal level**," and is small "close to the base station" and at its maximum "at the limits of the coverage area." EX1006, 1:9-17 (emphasis added).

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